

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ENGLER, MEIER & JUSTUS
dba Circle Supply of Atlanta,

Plaintiff,

:

Case No. 3:09-cv-197

-vs-

Magistrate Judge Michael R. Merz

:

MIAMI VALLEY SYNTHETICS,
INC., et al.,

Defendants.

**DECISION AND ORDER DENYING JOINT MOTION FOR SUMMARY JUDGMENT
WITHOUT PREJUDICE**

This case is before the Court on Joint Motion for Summary Judgment of Defendants Mills-Morgan Development, Ltd., Mills-Morgan Pentagon Towers, Ltd., and Porter Contractors, Inc. (Doc. No. 54). Although the Motion was filed August 13, 2010, there have been numerous extensions of discovery and therefore of the response date for the Motion. Most recently on January 14, 2011, and after a scheduling conference, the Court entered Amendments to the Scheduling Order which extend the deadline for responding to this Motion to April 1, 2011 (Doc. No. 83, PageID 544). Of necessity this means the Motion will not be ripe for decision until the latter part of April.

However, under the Civil Justice Reform Act (the so-called “Biden Bill”¹) this Motion would have to be reported by the undersigned to the Congress and the public as overage if it is not decided by March 31, 2011. It would, of course, be unfair to the parties to decide the Motion without proper

¹It is a matter of frequent discussion among federal judges whether the Vice President still has an “investment” in this legislation he sponsored over twenty years ago.

briefing.

Accordingly, the Motion is denied without prejudice to its immediate refiling which counsel may do merely by incorporating the prior Motion by reference in a renewed motion.

January 17, 2011.

s/ **Michael R. Merz**
United States Magistrate Judge